Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 016 - 17970 - 1351 - 058 | Date: 08/22/16 | Time: 0945 Hours

Location: [redacted] Joliet Avenue | City or Station: Hawaiian Gardens

Bureau/Station/Facility: South Patrol Division / Lakewood Station | Admin. Investigation: ○ YES ◉ NO

Type of Force: Personal Weapons (Hand) / Control Holds / Taser

Incident Category: ○1 ○2 ◉3 | Deputy Injury: ◉ YES ○ NO | Suspect Injury ◉ YES ○ NO

☒ Call ☐ Observation ☐ Detail ☐ Foot Pursuit ☐ Vehicle Pursuit

IAB Notified: ◉YES ○ NO | Person Notified: Lt. David Grall | Emp: [redacted] | IAB Roll Out ○ YES ◉ NO

Involved Employee

E 1

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	Gomez	Fernando	R.	B-1

Sex: ◉ M ○ F | Race: H | Height: 5' 09" | Weight: 190 | Age: [redacted] | Shift: ○ EM ◉ Day ○ PM | ○ Regular Shift ◉ OT Shift ○ Off Duty

Unit of Assignment: Lakewood Station | Work Assignment (Unit #, Module, etc.): 135A

Individual Force Used: Personal Weapons (Hands) / Control Holds | ○ Directed ○ Rescue ○ Medical Assist | Individual Category ○1 ○2 ◉3

☒ Injured ☒ Treated ☐ Admitted | Facility: Kaiser Permanente - Downey | Coroner Case #

E 2

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	[redacted]	[redacted]	[redacted]	DSG

Sex: [redacted] M [redacted] F | Race: [redacted] | Height: [redacted] | Weight: [redacted] | Age: [redacted] | Shift: ○ EM ◉ Day ○ PM | ◉ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: [redacted] | Work Assignment (Unit #, Module, etc.): 135G3

Individual Force Used: [redacted] | ○ Directed ○ Rescue ○ Medical Assist | Individual Category [redacted]

☐ Injured ☐ Treated ☐ Admitted | Facility: | Coroner Case #

E /

Employee #	Last Name	First Name	Middle I.	Rank

Sex: ○ M ○ F | Race: | Height: | Weight: | Age: | Shift: ○ EM ○ Day ○ PM | ○ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: | Work Assignment (Unit #, Module, etc.):

Individual Force Used: | ○ Directed ○ Rescue ○ Medical Assist | Individual Category ○1 ○2 ○3

☐ Injured ☐ Treated ☐ Admitted | Facility: | Coroner Case #

On Duty Supervisor ☒ Additional Involved Employees

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Birkbeck	Quiana	L.	SGT	YES ◉ NO ○	YES ○ NO ◉

Supervisor Completing Investigation

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Renteria	Israel	NMI	SGT	YES ○ NO ◉	YES ○ NO ◉

Watch Commander / Supervising Lieutenant

Emp #	Last Name	First Name	Middle I.	Rank
[redacted]	Butao	Oscar	R.	SGT

Lt. Grall [signature] | 2/17/17

Watch Commander / Supervising Lieutenant's **Signature:** | Date | Copy Provided to Employee by: | Emp #: [redacted]

Captain James P. Wolak

Unit Commander (**Print Name**) | Unit Commander's **Signature**: | Emp #: | Date

DISCOVERY Use Only
FO#

☒ PPI REVIEW COMPLETED

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 01/13)

Supervisor's Report on Use of Force
SUSPECT INFORMATION

016 - 17970 - 1351 - 058

Suspect Information

S 1

Last Name: Vergara | First Name: Gilberto | Middle Name: NMN | Armed? Select: Not Armed

AKA Last Name: None | First Name: | Middle Name:

Sex: (●) Male ( ) Female | Race: H | Age: 22 | Height: 6' 02" | Weight: 170 | D.O.B: 08-11-94 | Phone #1: ( ) H ( ) W ( ) C [redacted] | Phone #2: ( ) H ( ) W ( ) C None

Street Address: [redacted] | City: [redacted] | State & Zip Code: [redacted]

Booking #: 4758161 | Primary Charge Code: 69(a) P.C. | Secondary Charge Code: 242 P.C. | ☒ Criminal History

Treated on Scene? (●) YES ( ) NO | Name: Los Angeles County Fire | Unit: Engine 34 | Phone #: 562-865-4119

Hospital Admission? ☒ | Rec'd Treatment At: LAC+USC Med. Center | Coroner Case #: | Mental History ☒ User's guide provides direction on this entry

By: Dr. Megan L. Johnson | Address: 2051 Marengo Street, Los Angeles | Phone #: 323-409-1000

Under Influence: ( ) YES (●) NO | Substance: None | 5150 a factor in force? (●) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: 08-22-16 | Time: 1147 | ☐ Audiotape: | ☒ Videotape: | ☒ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S /

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | ☐ Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? ☐ | Rec'd Treatment At: | Coroner Case #: | Mental History ☐ User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: | ☐ Videotape: | ☐ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S /

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | ☐ Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? ☐ | Rec'd Treatment At: | Coroner Case #: | Mental History ☐ User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: | ☐ Videotape: | ☐ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

☐ **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION

016 - 17970 - 1351 - 058

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Bitolas	Michael	A.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Lakewood Station	135B	○ EM ◉ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Birkbeck	Quiana	L.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Lakewood Station	130S	○ EM ◉ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
		○ EM ○ Day ○ PM	○ Regular ○ OT ○ Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

☐ **Additional Witness**

Supervisor's Report on Use of Force

016 - 17970 - 1351 - 058

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(RO) Restraint Device (Other)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(IR) Less Lethal Impact Round (other)
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative
(HR) High Risk

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Involved

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method	Type of Injury	Body Part
Name	E# or S#	Name	E# or S#	(Code)	(Code)	(Code)
Vergara	S#1	Gomez	E#1	UC	NN	---
Vergara	S#1	[redacted]	E#2	UC	NN	---
Vergara	S#1	Gomez	E#1	PH	NN	HE
Gomez	E#1	Vergara	S#1	PH	FR	FA
Vergara	S#1	Gomez	E#1	HR	NN	HD
Gomez	E#1	Vergara	S#1	PH	NN	FA
Vergara	S#1	Gomez	E#1	RS	NN	HD
Gomez	E#1	Vergara	S#1	CT	NN	BK
Vergara	S#1	Gomez	E#1	HR	NN	HD
Gomez	E#1	Vergara	S#1	PH	CP	HD
[redacted]	E#2	Vergara	S#1	TR	NN	BK
[redacted]	E#2	Vergara	S#1	CT	NN	BK
Gomez	E#1	Vergara	S#1	RH	NN	WR
[redacted]	E#2	Vergara	S#1	RH	NN	WR

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT:	**Use of Force, Fractured Jaw Requiring Hospitalization**
IAB FILE NUMBER:	**FO 2410263**
URN#:	**016-17970-1351-058**
DATE/TIME:	**August 22, 2016, 0945 hours**
LOCATION:	[redacted] **Joliet Avenue, Hawaiian Gardens**

SYNOPSIS

On August 22, 2016, deputies from Lakewood Sheriff's Station responded to [redacted] Joliet Avenue, Hawaiian Gardens, regarding a possible battery just occurred call, Tag-118. The call provided a description of the suspect and indicated he suffered from an unknown mental illness **(See Incident Details, Tag-118, submitted as EXHIBIT A)**.

> **IAB NOTE: On the date of the incident, Internal Affairs Bureau, Lieutenant Grall, was notified of the use of force. Internal Affairs Bureau assumed command of the investigation on November 4, 2016, when Lakewood Operations Sergeant, Sergeant Burt, notified Internal Affairs of Suspect Vergara's injury.**

Due to the call indicating the suspect suffered from an unknown mental illness, Deputy Bitolas (Unit 135B/D), requested a supervisor to respond to the location. Deputy Bitolas directed his assisting units to meet west of the location, on 223rd Street, in order to formulate a plan to contact the disturbing party. Deputy Bitolas, Deputy Reynolds (Unit 132D/D), and Deputy Gomez (Unit 135A/D), were the first units on scene. Sergeant Birkbeck (Unit 130S/D), arrived at the location shortly thereafter **[Refer to interview transcripts of Deputy Bitolas, pages 4-5, Deputy Reynolds, page 3, and Deputy Gomez, page 3]**.

Deputy Bitolas contacted Witness [redacted] and spoke to her in Spanish. Witness [redacted] advised Deputy Bitolas that her [redacted] Suspect Vergara, head-butted her on the head during an argument. Witness [redacted] added Suspect Vergara was schizophrenic and had not taken his medication. Witness [redacted] advised Deputy Bitolas that Suspect Vergara was inside the residence **[Refer to**

interview transcripts of Deputy Bitolas, page 5, and Witness [redacted] pages 3-6].

Witness [redacted] was desirous of a private person's arrest, as a result of Suspect Vergara assaulting her. Witness [redacted] signed a Statement of Private Person's Arrest form **(See Private Person's arrest submitted as EXHIBIT B)**. Witness [redacted] was instructed to wait in front of the location while deputy personnel attempted to contact her [redacted] **[Refer to Witness [redacted] interview transcript, pages 9 and 14]**.

> **IAB NOTE: Deputy [redacted] (Unit 135G/D) arrived on scene as Deputy Bitolas gathered details of the incident [Refer to Deputy [redacted]s interview transcript, page 3].**

At the direction of Sergeant Birkbeck, Deputies Gomez, [redacted] Reynolds, and Bitolas formulated a tactical plan to safely contact Suspect Vergara. Deputies Gomez and [redacted] were assigned with establishing a rear containment in the back yard of the location. Sergeant Birkbeck and Deputies Bitolas and Reynolds were designated with attempting to contact Suspect Vergara at the front door of the residence **[Refer to interview transcripts of Deputy Bitolas, pages 5-6, Deputy Reynolds, pages 2-3, and Sergeant Birkbeck, pages 4-5]**.

> **IAB NOTE: During the tactical planning session, Deputy Reynolds advised deputy personnel of the previous contacts he had with Suspect Vergara. The previous contacts were Suspect Vergara creating a disturbance with family members; being placed under a 5150 WIC, 72 hour hold; and being an agitator of a crowd at an assault with a deadly weapon incident [Refer to Deputy Reynolds' follow up interview transcript, page 2].**

As Deputies Bitolas and Reynolds knocked on the front door of the residence, Deputies Gomez and [redacted] walked up the driveway and positioned themselves in the back yard. Sergeant Birkbeck positioned herself on the driveway, where she was able to see into the backyard, but still have a visual of Deputies Bitolas and Reynolds **[Refer to interview transcripts of Deputy [redacted], page 4, Sergeant Birkbeck, page 5, and Deputy Reynolds, pages 3-4]**.

Once in the backyard, Deputy Gomez observed a rear door on the north side of the residence and an open window, with no screen and a red curtain, to the south of the location. Upon closer inspection of the open window, Deputy Gomez saw the curtain move and observed Suspect Vergara inside the bedroom. Suspect Vergara was lying on his stomach on a bed, with his head

near the open window. Deputy Gomez advised Deputy [redacted] who was approximately ten feet behind him, that he observed the curtain move **[Refer to interview transcripts of Deputy Gomez, page 6, and Deputy [redacted], page 4]**.

Upon seeing the deputies' presence, Suspect Vergara yelled out, "What the fuck are you doing here?" Deputy Gomez requested Suspect Vergara step out of the residence in order to speak with deputy personnel. Suspect Vergara continued to yell obscenities at the deputies. Without warning, Suspect Vergara got to his feet on the bed and jumped out of the open bedroom window **[Refer to Deputy Gomez' interview transcript, pages 6-7]**.

Suspect Vergara landed on his feet, approximately seven feet away from Deputy Gomez. Suspect Vergara took a fighting stance. Suspect Vergara immediately ran toward Deputy Gomez with his right arm elevated and cocked back, as if preparing to strike Deputy Gomez. Suspect Vergara punched at Deputy Gomez' face with his right hand. Fearing Suspect Vergara would cause him great bodily injury, Deputy Gomez side stepped to his left, while using his left hand to divert the punch away from his face. Deputy Gomez simultaneously punched Suspect Vergara once on the right side of his face, with his right fist, in an attempt to end the assault **[Refer to Deputy Gomez' interview transcript, pages 7-8]**.

Suspect Vergara fell to his knees, as Deputy Gomez re-assessed the situation. The punch had little effect on Suspect Vergara, as he attempted to stand up. Fearing Suspect Vergara would continue his assaultive behavior, Deputy Gomez punched him a second time on the face with his right fist **[Refer to Deputy Gomez' interview transcript, pages 7-8]**.

Suspect Vergara fell to the ground, flat on his stomach. Deputy Gomez applied pressure onto Suspect Vergara's back with his right knee in an attempt to control his movements. Suspect Vergara attempted to stand up, by lifting himself off the ground with his hands. Fearing Suspect Vergara would break free of his control and continue his assault, Deputy Gomez punched Suspect Vergara a third time on the face with his right fist **[Refer to Deputy Gomez' interview transcript, pages 9-11]**.

Deputy [redacted] who was approximately ten feet behind Deputy Gomez, observed Suspect Vergara's assault. Deputy [redacted] diverted his vision away from Deputy Gomez in order to re-holster his duty weapon and deploy his Taser. Deputy [redacted] positioned himself to the right of Deputy Gomez and fired his Taser at Suspect Vergara, striking him in the upper torso. One Taser prong did not make contact with Suspect Vergara, while the other prong struck him on the upper torso. The Taser appeared to have a pain compliance effect on Suspect Vergara; however, it did not incapacitate him. After being struck by the Taser prong, Suspect Vergara went flat on his stomach with his right hand underneath

his body **[Refer to interview transcripts of Deputy Gomez, page 11, and Deputy** [redacted] **pages 5-8]**.

> **IAB NOTE: Refer to downloaded information of Deputy** [redacted]**'s Taser, serial number X00-723441, Model number X26, submitted as [MISCELLANEOUS DOCUMENTS].**

Deputy Gomez took control of Suspect Vergara's left hand, while using his body weight to hold him down on the ground. Deputy [redacted] simultaneously straddled Suspect Vergara. Deputies Gomez and [redacted] gave Suspect Vergara verbal commands to submit to handcuffing; however, Suspect Vergara would not release his right hand from underneath his body. Deputy Gomez initiated emergent radio traffic, advising deputies were involved in a fight in the rear of the location **[Refer to interview transcripts of Deputy Gomez, pages 9-11, and Deputy** [redacted] **page 8]**.

Upon hearing the emergent radio traffic, Deputy Bitolas and Sergeant Birkbeck immediately responded to the rear of the location. Deputy Bitolas observed Deputies Gomez and [redacted] restraining Suspect Vergara on the ground. Suspect Vergara was lying on the left side of his body, with his right hand tucked underneath him. Suspect Vergara resisted Deputies Gomez and [redacted] by moving his body from side-to-side, while using his right hand to push himself off the ground. Suspect Vergara also attempted to free his left arm from Deputy Gomez' control **[Refer to Deputy Bitolas' interview transcript, pages 6-8]**.

Fearing Suspect Vergara's right hand was a direct threat to Deputies Gomez and [redacted], Deputy Bitolas deployed his Taser. Deputy Bitolas removed the Taser cartridge and placed the electrodes directly on Suspect Vergara's neck. Deputy Bitolas warned Suspect Vergara if he did not free his right hand and stop resisting, he would activate the Taser. Suspect Vergara complied and freed his right hand. Deputies Gomez and [redacted] handcuffed Suspect Vergara without further resistance **[Refer to Deputy Bitolas' interview transcript, page 8]**.

As a preventive measure, the Hobble Restraint was applied on Suspect Vergara's legs. Suspect Vergara offered no resistance when the Hobble Restraint was applied; however, he continued to yell and scream obscenities at deputy personnel. Deputies Gomez and [redacted] assisted Suspect Vergara to his feet. Suspect Vergara was escorted to the front of the location and placed in the backseat of a patrol vehicle until paramedics arrived to treat him for any injuries **[Refer to interview transcripts of Sergeant Birkbeck, page 7, and Deputy Reynolds, pages 4-5]**.

Once secured in the back seat of the patrol vehicle, Suspect Vergara hit his head numerous times against the security screen located in the back seat of the patrol vehicle. Deputy personnel spoke with Suspect Vergara, and he stopped hitting

his head against the security screen **[Refer to Witness [redacted] interview transcript, pages 21-23]**.

The reports documenting the use of force and assault on Witness [redacted] were submitted and approved by Sergeant's Birkbeck, Ernie Ferraras, and Paul Jernigan **(See Incident Report and Supplemental Reports, submitted as EXHIBIT C)**.

> **IAB NOTE: Sergeant Birkbeck completed her use of force investigation and authored a Supervisor's Report on Use of Force (See Sergeant Birkbeck's Supervisor's Use of Force (SH-R-438P) submitted as EXHIBIT D).**

INVOLVED EMPLOYEE AND WORK HISTORY

Fernando Gomez, Deputy Sheriff, #[redacted]
South Patrol Division
Lakewood Station

Work History

Date of Employment:	April 9, 2007
Date Assigned to Patrol/Lakewood Station:	January 20, 2013
Date Completed Patrol Training:	[redacted]
Prior Founded Force Incidents:	

Equipment Worn On Person

Smith & Wesson M&P 9mm pistol
(2) Magazines
Oleoresin Capsicum (O.C.) Spray
(2) Handcuffs
Expandable Baton
Radio
Smith & Wesson .38 caliber back-up (carried in right front pocket)

INVOLVED EMPLOYEE AND WORK HISTORY

[redacted] Deputy Sheriff, #[redacted]
[redacted]

Work History

Date of Employment:
Date Assigned to Patrol/[redacted]


[redacted]

Date Completed Patrol Training: [redacted]
Prior Founded Force Incidents: [redacted]

Equipment Worn On Person

Smith & Wesson M&P 9mm pistol
(2) Magazines
Expandable baton
Radio
Taser
(2) Handcuffs
Oleoresin Capsicum (O.C.) Spray

SUSPECT INFORMATION

Gilberto Vergara
Male, Hispanic, DOB: August 11, 1994, 6'02", 170 pounds
[redacted]
CII # [redacted] MAIN # [redacted], FBI # [redacted]

IAB Note: See attached copy of Suspect Vergara's criminal history submitted as [MISCELLANEOUS DOCUMENTS].

SUSPECT'S INJURIES

Suspect Gilberto Vergara was transported to Coast Plaza Hospital to be treated for his injuries. Suspect Vergara refused medical treatment and did not complain of pain or injuries. Suspect Vergara was seen by the Emergency Department physician and given medical clearance for booking **(See Coast Plaza Hospital, Patient Refusal of Further Medical Treatment form, submitted as EXHIBIT E, and Sergeant Birkbeck's Supervisor's Use of Force, Refusal of Medical Treatment video, CD #1, submitted as EXHIBIT D)**.

Suspect Vergara was transported to Lakewood Station. During the videotaped watch commander interview conducted by Sergeant Oscar Butao, Suspect Vergara complained of pain to his jaw and soreness under his right eye. Suspect Vergara was transported to L.A.C+U.S.C. Medical Center for further medical treatment **(See Sergeant Birkbeck's Supervisor's Use of Force, Watch Commander interview, CD #2, submitted as EXHIBIT D)**.

IAB NOTE: For documentation purposes, Sergeant Birkbeck attempted to photographs and/or video tape Suspect Vergara's injuries; however, he refused (See Sergeant Birkbeck's Supervisor's Use of Force (SH-R-438P). After learning about Suspect Vergara's fractured jaw, Sergeant Birkbeck

contacted Lieutenant Joe Reveles at Twin Towers Correctional Facility, and had him attempt to take pictures of Suspect Vergara's injury. Once again, Suspect Vergara refused (Refer to Sergeant Birkbeck's interview transcript, pages 9 and 12, and see photographs of Suspect Vergara, submitted as MISCELLANEOUS DOCUMENTS)

The treating physician at L.A.C+U.S.C. Medical Center, Doctor Megan Johnson, treated Suspect Vergara and diagnosed him with a fractured left jaw. Doctor Johnson referred Suspect Vergara to the oral surgeon, where surgery for his fractured jaw was discussed. Suspect Vergara refused the surgery and left the clinic against medical advice **(See attached L.A.C+U.S.C. Medical Center records submitted as EXHIBIT F)**.

IAB Note: **On November 14, 2016, IAB Investigators received medical records from L.A.C+U.S.C. Medical Center. A review of the documents found them to be consistent with the medical diagnosis given by Doctor Megan Johnson.**

IAB Note: **On June 22, 2017, Doctor Megan Johnson was interviewed by IAB Sergeant Israel Renteria. Doctor Johnson was interviewed regarding the injuries to Suspect Gilberto Vergara. Sergeant Renteria described the use of force incident to Doctor Johnson.**

Doctor Johnson described the injury as a fracture to the jaw. Doctor Johnson stated Suspect Vergara's injuries were consistent with the use of force used by deputy personnel. Doctor Johnson stated Suspect Vergara also had tenderness to his right elbow and a superficial laceration to his left forearm. Doctor Johnson did not see any injuries to Suspect Vergara's upper torso, nor to his legs.

DEPUTY PERSONNEL INJURIES

Deputy Gomez was transported to Kaiser Permanente-Downey to be treated for swelling and pain to his right hand. Deputy Gomez was treated by Doctor Steve Kim and diagnosed with a bruised right hand. The injury was documented by Lakewood Station under file number 016-17977-1351-502.

PHYSICAL EVIDENCE

None

INVESTIGATOR'S OBSERVATIONS

On August 22, 2016, Internal Affairs Bureau (IAB) Lieutenant David Grall, was notified of the use of force **(See attached IAB Mandatory Notification Form EXHIBIT G)**. At the time of the notification, Suspect Vergara's injury (fractured jaw) was unknown as he refused medical treatment at Coast Plaza. As a result, an IAB team did not respond to the use of force incident.

On November 4, 2016, Lakewood Sheriff's Station Operations Sergeant, Sergeant Burt, was made aware of Suspect Vergara's injury on Sergeant Birkbeck's Supervisor's Use of Force **(See Sergeant Birkbeck's Supervisor's Use of Force (SH-R-438P) submitted as EXHIBIT D)**. Sergeant Burt notified Internal Affairs Bureau, Lieutenant David Grall. Sergeant Burt provided medical paperwork for Suspect Vergara, which detailed a fractured jaw as a medical diagnosis **(See attached L.A.C+U.S.C. Medical Center records submitted as EXHIBIT F)**. Internal Affairs Bureau immediately assumed command of the investigation.

On May 4, 2017, the scene was photographed by IAB investigators. IAB investigators also gathered all radio traffic associated with the call for service and use of force incident **(See attached photographs and CD submitted as EXHIBIT H)**.

WEAPON USED BY DEPUTY GOMEZ

Deputy Gomez used personal weapons and control holds.

WEAPON USED BY DEPUTY [redacted]

Deputy [redacted] used the Taser and control holds.

WEAPONS USED BY SUSPECT GILBERTO VERGARA

Suspect Vergara used personal weapons.

PROPERTY DAMAGE BY SUSPECT

None.

CRIMINAL INVESTIGATORS AND CHARGES FILED

INVESTIGATOR: Lakewood Station Detective Matthew Hart, #[redacted]

COURT: Bellflower Courthouse

CHARGES: Suspect Gilberto Vergara, 243(d) P.C.; 242 P.C.; 664/243(b) P.C.

On December 27, 2016, Suspect Vergara was convicted of Battery with Great Bodily Injury, 243(d) P.C. and Battery, 242 P.C. Suspect Vergara was sentenced to serve 68 days in the Los Angeles County Jail and placed on 36 months summary probation.

> **IAB NOTE: On March 23, 2017, Bellflower Court issued a bench warrant for Suspect Vergara as a result of him violating the rules of his probation (See attached copy of Suspect Vergara's criminal history submitted as MISCELLANEOUS DOCUMENTS).**

LIGHTING AND WEATHER CONDITIONS

The incident occurred during the morning hours. The weather was clear and cool.

INVESTIGATION

Internal Affairs investigators interviewed the below personnel and witnesses. The following is a summary of their interviews. For more information and precise wording, see the attached verbatim interview transcriptions.

CIVILIAN WITNESS [redacted]

On May 11, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Jaime Alvarez, interviewed Witness [redacted] at the Hawaiian Gardens Public Safety center, located at 11940 Carson Street. The interview was conducted in Spanish, digitally recorded, and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

On August 22, 2016, Witness [redacted] called Lakewood Sheriff's Station to report Suspect Vergara had assaulted her by head-butting her on the head . When deputy personnel arrived, Witness [redacted] advised them of the incident. Witness [redacted] advised deputy personnel she was desirous of a private person's arrest due to Suspect Vergara assaulting her. Witness [redacted] was in fear of Suspect Vergara, as this was not the first incident where he has attacked her. On a previous incident, he attempted to suffocate her with a pillow and told her he was going to disfigure her face **[Refer to Witness [redacted] interview transcript, pages 3, 14, and 16]**.

Witness [redacted] did not see the incident involving Suspect Vergara and deputy personnel. Witness [redacted] was advised to remain in front of the location. Once deputy personnel escorted Suspect Vergara from the back yard to a patrol vehicle, Witness [redacted] observed him appearing disheveled and covered in dirt **[Refer to Witness [redacted] interview transcript, pages 8-10]**.

WITNESS DEPUTY MICHAEL BITOLAS

On May 5, 2017, Internal Affairs Investigators, Sergeants Israel Renteria and Thomas Arellano, interviewed Deputy Michael Bitolas at Internal Affairs Bureau, interview room "B." The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

On August 22, 2016, Deputy Bitolas responded to [redacted] Joliet Avenue, Hawaiian Gardens, regarding a battery just occurred call, where the suspect was described as suffering from an unknown mental illness. Deputy Bitolas coordinated with his assisting units and requested a field supervisor respond to the location **[Refer to Deputy Bitolas' interview transcript, pages 4-5]**.

While at the front door of the residence, Deputy Bitolas heard emergent radio traffic advising deputies were involved in a fight in the back yard of the location. Deputy Bitolas responded to the back yard of the location and observed Deputies Gomez and [redacted] holding Suspect Vergara down on the ground. Deputy Bitolas heard Deputies Gomez and [redacted] order Suspect Vergara to, "Give up your hand, give me your hand, give me your hand." **[Refer to Deputy Bitolas' interview transcript, pages 6-7]**.

Deputy Bitolas observed Suspect Vergara resisting Deputies Gomez and [redacted] by placing his right hand underneath his body in order to push himself off the ground. Deputies Gomez and [redacted] were struggling to get control of his arms. Deputy Bitolas deployed his Taser, took out the cartridge, and placed the electrodes of the Taser directly on Suspect Vergara's neck/cheek area. Deputy Bitolas gave Suspect Vergara orders to give up his hands or he would activate his Taser. Suspect Vergara immediately complied, stopped resisting, and was handcuffed by Deputies Gomez and [redacted] **[Refer to Deputy Bitolas' interview transcript, pages 7-8]**.

Deputy Bitolas stated when he arrived at the back yard of the location, he did not know if Suspect Vergara was armed with a weapon or if Deputies Gomez and [redacted] sustained any injuries. Deputy Bitolas quickly assessed the situation and believed Suspect Vergara needed to be immediately controlled. As a result, Deputy Bitolas placed the Taser on Suspect Vergara's neck/cheek area as an intimidation factor. Once Suspect Vergara observed and felt the Taser on his neck/cheek area, he stopped resisting and no further force was necessary **[Refer to Deputy Bitolas' interview transcript, page 9]**.

WITNESS DEPUTY LEON REYNOLDS

On May 11, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Jaime Alvarez, interviewed Deputy Leon Reynolds at the Hawaiian

Gardens Public Safety Center, located at 11940 Carson Street. The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

On August 22, 2016, Deputy Reynolds followed the ambulance to Coast Plaza Hospital to have Suspect Vergara medically treated. At the hospital Suspect Vergara had the Taser prong removed from his upper torso. Suspect Vergara did not complain of pain to his jaw or any other possible injuries. After being medically treated Suspect Vergara was transported to Lakewood Sheriff's Station **[Refer to Deputy Reynolds' interview transcript, pages 5-6]**.

Deputy Reynolds has previously contacted Suspect Vergara for incidents involving him creating a disturbance, refusing to take his medication, and to place him under a 5150 W.I.C, 72 hour observation hold **[Refer to Deputy Reynolds' interview transcript, pages 7-8]**.

On July 11, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Thomas Arellano, conducted a follow up interview of Deputy Reynolds at Lakewood Sheriff's Station. The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

Deputy Reynolds stated during the tactical planning session, he advised Sergeant Birkbeck and Deputies Gomez, [redacted] and Bitolas, of the previous contacts he had with Suspect Vergara. Deputy Reynolds provided further information of Suspect Vergara having a history of running out the rear of the location in order to avoid arrest and/or detention. As a result of the information provided by Deputy Reynolds, Deputies Gomez and [redacted] were designated with covering the rear of the location. Deputies Bitolas and Reynolds, and Sergeant Birkbeck were designated with making contact at the front door of the location, to ascertain where Suspect Vergara was at inside the residence **[Refer to Deputy Reynolds' follow up interview transcript, pages 2-4]**.

After the use of force incident occurred, Deputy Reynolds does not recall if a Sam-918 unit or Mental Evaluation Team was requested by Deputy Bitolas or Sergeant Birkbeck, to mentally evaluate Suspect Vergara. Deputy Reynolds was unaware if a Sam-918 unit was available for service **[Refer to Deputy Reynolds' follow up interview transcript, pages 4-5]**.

Deputy Reynolds followed Suspect Vergara as he was transported, via ambulance, to a local hospital to be medically treated. Suspect Vergara was transported to the hospital to be medically treated as a result of the use of force **[Refer to Deputy Reynolds' follow up interview transcript, page 5]**.

WITNESS SERGEANT QUIANA BIRKBECK

On May 8, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Jaime Alvarez, interviewed Sergeant Quiana Birkbeck at the Hawaiian Gardens Public Safety Center, located at 11940 Carson Street. The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

On August 22, 2016, Sergeant Birkbeck responded to [redacted] Joliet Avenue, Hawaiian Gardens, regarding a battery call for service. Deputy personnel contacted Witness [redacted] and ascertained that Suspect Vergara had assaulted her. Witness [redacted] advised deputy personnel that Suspect Vergara suffered from an unknown mental issue. Witness [redacted] stated Suspect Vergara was inside the residence and wanted him placed under a private person's arrest **[Refer to Sergeant Birkbeck's interview transcript, pages 3-4]**.

Sergeant Birkbeck advised Witness [redacted] deputy personnel were not going "hands on" with Suspect Vergara, as a result of the battery being a misdemeanor crime, not committed in the presence of deputy personnel. Sergeant Birkbeck stated no plan was made for going "hands on" with Suspect Vergara if he was in the backroom of the residence. Sergeant Birkbeck's plan was to contact Suspect Vergara and ascertain if a crime occurred **[Refer to Sergeant Birkbeck's interview transcript, pages 4-5]**.

Sergeant Birkbeck and Deputies Bitolas, Gomez, and [redacted] devised a tactical plan in order to contact Suspect Vergara. During the tactical plan, Deputies Gomez and [redacted] were designated with establishing a rear containment. Deputy Bitolas and Sergeant Birkbeck were designated with contacting Suspect Vergara at the front door of the residence. Sergeant Birkbeck positioned herself on the driveway of the location, where she could assist Deputy Bitolas, while maintaining visual sight on Deputies Gomez and [redacted]. Once Deputies Gomez and [redacted] walked further into the back yard, Sergeant Birkbeck lost sight of them **[Refer to Sergeant Birkbeck's interview transcript, page 5, 10]**.

While assisting Deputy Bitolas, Sergeant Birkbeck heard the "pop" sound of a Taser being activated come from the back yard of the location. Sergeant Birkbeck responded to the back yard. Once in the back yard, Sergeant Birkbeck observed Suspect Vergara in handcuffs, with Deputies Gomez and [redacted] assisting him onto his feet. Prior to getting Suspect Vergara completely onto his feet, Sergeant Birkbeck directed Deputy [redacted] to place the Hobble Restraint on his legs to prevent him from kicking at deputy personnel **[Refer to Sergeant Birkbeck's interview transcript, pages 6-7]**.

Suspect Vergara was escorted to the front of the location and placed inside a patrol vehicle until paramedics arrived to treat him for any injuries sustained as a result of the use of force. Paramedics arrived on scene and Suspect Vergara did

not allow them the opportunity to assess him for any injuries. Suspect Vergara was transported to Coast Plaza Hospital, where he once again refused medical treatment. Suspect Vergara was acting belligerent and yelling at hospital staff **[Refer to Sergeant Birkbeck's interview transcript, pages 7-8]**.

On July 3, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Jeff Hamil, conducted a follow up interview of Sergeant Birkbeck at Internal Affairs Bureau, interview room "B". The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

Sergeant Birkbeck stated she was the only field supervisor working on August 22, 2016. Prior to making contact with Suspect Vergara, a tactical plan was set in place, with Sergeant Birkbeck assigning specific duties. Sergeant Birkbeck assigned Deputies Gomez and [redacted] with establishing a rear containment. Sergeant Birkbeck assigned herself and Deputy Bitolas with making contact with Suspect Vergara at the front door of the residence. Sergeant Birkbeck could not recall all the specific details of the tactical plan as the incident occurred almost a year prior **[Refer to Sergeant Birkbeck's follow up interview transcript, page 3]**.

Sergeant Birkbeck could not recall asking Deputy Bitolas if Suspect Vergara made statements of suffering from a mental illness. Sergeant Birkbeck did not request a Sam-918 unit or Mental Evaluation Team. As a result of Suspect Vergara acting "really crazy and belligerent," coupled with the use of force applied, he was transported to the hospital. Sergeant Birkbeck does not know if Deputy Bitolas requested a Sam-918 unit or if one was available for service at the time the incident occurred **[Refer to Sergeant Birkbeck's follow up interview transcript, pages 4-5]**.

INVOLVED DEPUTY FERNANDO GOMEZ

On May 5, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Thomas Arellano, interviewed Deputy Fernando Gomez at Internal Affairs Bureau, interview room "B." The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

On August 22, 2016, Deputy Gomez responded to [redacted] Joliet Avenue, Hawaiian Gardens, regarding a battery just occurred call. Deputy Bitolas, Unit 135B/D, coordinated with his assisting units and requested a field supervisor respond to the location **[Refer to Deputy Gomez' interview transcript, pages 2-3]**.

During the tactical plan, Deputy Gomez recognized the residence and knew the location had a back room. Deputy Gomez knew this information from having

arrested a tenant on a previous incident. As a result, Deputy Gomez volunteered for the rear containment assignment. Deputy [redacted] was designated as Deputy Gomez' partner, due to him having a Taser. Deputy [redacted]s role was to utilize the Taser if needed **[Refer to Deputy Gomez' interview transcript, pages 4-5, and 15]**.

Deputy Gomez stated he had no time to de-escalate the situation, as Suspect Vergara immediately charged at him once he jumped out of the open window. Deputy Gomez had no time to deploy his O.C. Spray and had about a quarter second to react to the threat posed by Suspect Vergara. Deputy Gomez stated if he would have attempted to unsnap and deploy his O.C. Spray, it would have been too late and Suspect Vergara would have assaulted him **[Refer to Deputy Gomez' interview transcript, pages 12-14]**.

Deputy Gomez did not have a Taser on his gun belt, but stated Deputy [redacted] did. As a result, Deputies Gomez and [redacted] were partnered together during the pre-planning stage. Deputy [redacted]s role was to utilize the Taser if needed. Deputy Gomez stated if he would have had a Taser on his gun belt, there would not have been enough time to deploy it and Suspect Vergara would have assaulted him. Deputy Gomez stated the force he used on Suspect Vergara was the best option at the time, as he had seconds to react to the threat **[Refer to Deputy Gomez' interview transcript, pages 12-13 and 15]**.

INVOLVED [redacted]

On May 5, 2017, Internal Affairs Bureau Investigators, Sergeants Israel Renteria and Thomas Arellano, interviewed Deputy [redacted] at Internal Affairs Bureau, interview room "B." The interview was digitally recorded and transcribed. The audio file and transcripts were submitted with this case. The following is a summary of the interview.

Deputy [redacted] stated once Suspect Vergara jumped out of the window, he immediately assaulted Deputy Gomez. Deputy [redacted] was unable to de-escalate the situation with verbal commands. Deputy [redacted] estimated the entire incident lasted approximately five seconds, from the time Suspect Vergara jumped out of the window to the moment he activated his Taser **[Refer to Deputy [redacted]'s interview transcript, pages 4-5, 7, and 11]**.

Deputy [redacted] stated he was approximately ten feet behind Deputy Gomez and did not see him punch Suspect Vergara on the face at any time during the incident. Deputy [redacted] only observed Deputy Gomez put his arm up in defense. When Deputy [redacted] diverted his vision to re-holster his duty weapon and deploy his Taser, he heard the sound of flesh hitting flesh **[Refer to Deputy [redacted]'s interview transcript, pages 5-7]**.

ADDITIONAL INFORMATION

On May 8, 2017, an attempt was made to contact and schedule an interview with Suspect Vergara. Suspect Vergara did not call to schedule an interview and a certified letter was mailed, requesting he contact IAB investigators regarding this investigation. To date, Suspect Vergara has not made any attempts to schedule an interview **(See certified letter addressed to Suspect Vergara submitted as MISCELLANOUES DOCUMENTS)**.